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# National Payroll Week 2021 – Policy Team Update

# BENEFITS OF CIPP MEMBERSHIP

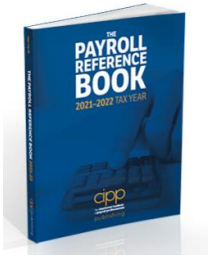
**Advisory Service**
Access to the highly valued technical helpline answering queries as they arise.

***Professional* magazine**
Providing you with news, updates and in-depth articles on the issues relevant to your industry.

***Policy Team Updates***
Regular updates, articles and webinars on the latest topics and legislation changes.

**Membership discounts**
Discounts on CIPP benefits, products and services such as training courses and events.

**Payroll factcard and factapp**
Issued at the start of the tax year, these useful tools contain key facts and figures that you need.




***Payroll Reference Book***
Annual 'payroll bible' with comprehensive information to support payroll professionals

**Recognition**
Gain recognition in your profession with the designatory letters gained by joining the institute.

**Representation**
Provide your views on forthcoming legislation via consultation surveys, forums and social media.

#BePayroll

# Today’s Agenda

- 2021-22 Tax Year Refresh
- The next UK budget
- Budget discussion
- The single enforcement body
- Recent case law
- Q&A

# 2021-22 Tax Year Refresh

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# Adjustments to previous tax years

- From April 2021 the EYU is no longer a valid submission for the prior year adjustments
- FPS will need to be submitted using late reporting reason H

| Tax Years Ending | Submission |
|---|---|
| 5th April 2018 and earlier | EYU |
| 5th April 2019 | EYU or FPS* |
| 5th April 2020 | EYU or FPS* |
| 5th April 2021 onwards | FPS |

*Ensure you understand how your software will manage these adjustments

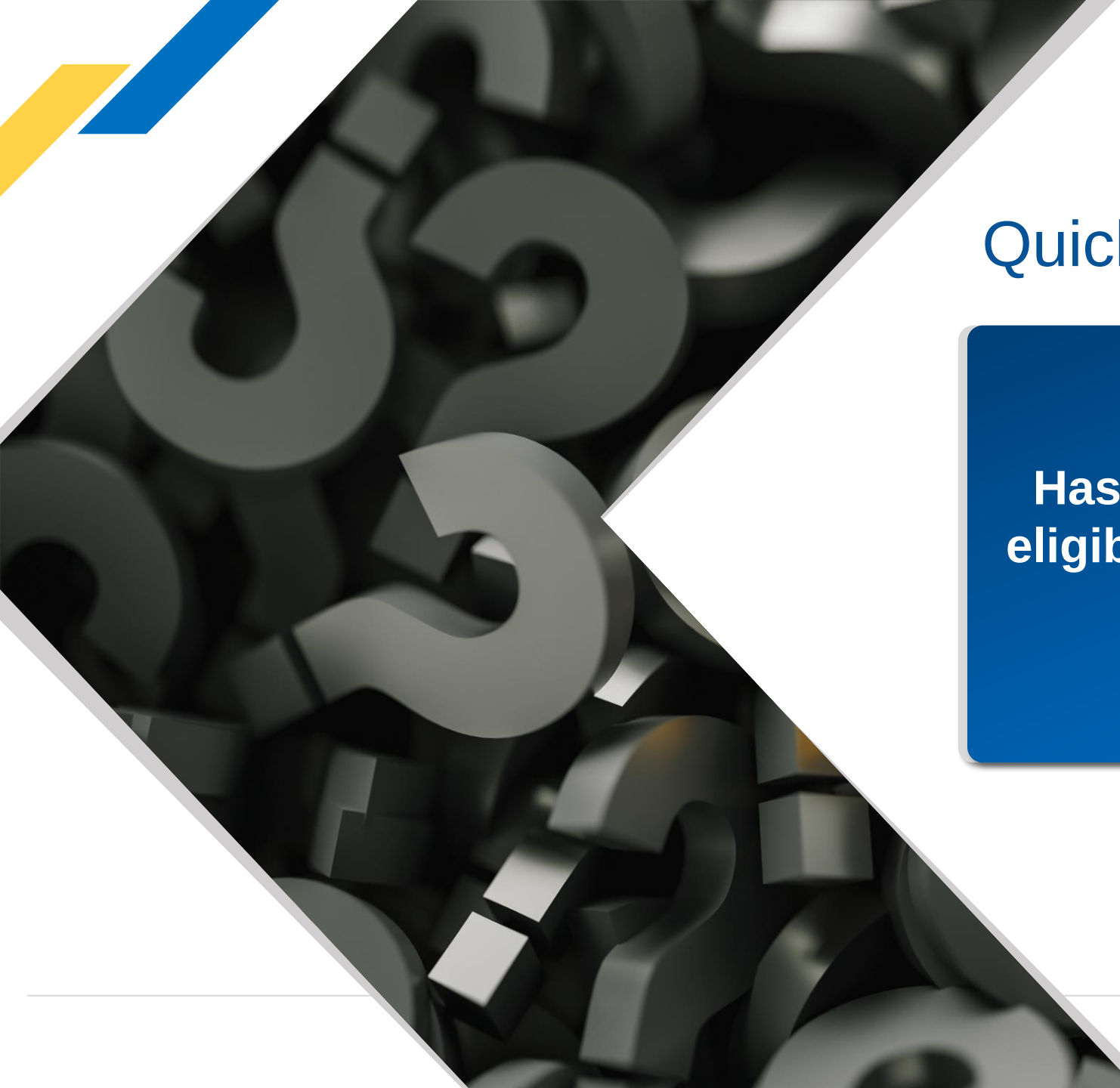
# Veteran’s National Insurance

**Eligibility**

- The individual must have served at least one day in the regular armed forces (including basic training)
- Available for first year of any civilian employment
- Employer’s should check and maintain records that evidence the employee is a qualifying veteran, and evidence their start date of civilian employment

**Claiming**

- Employers will pay the employers national insurance in tax year 2021/22
- From April 2022 employers will be able to reclaim the employers NI
- From April 2022 relief will be collected via PAYE (cat V)



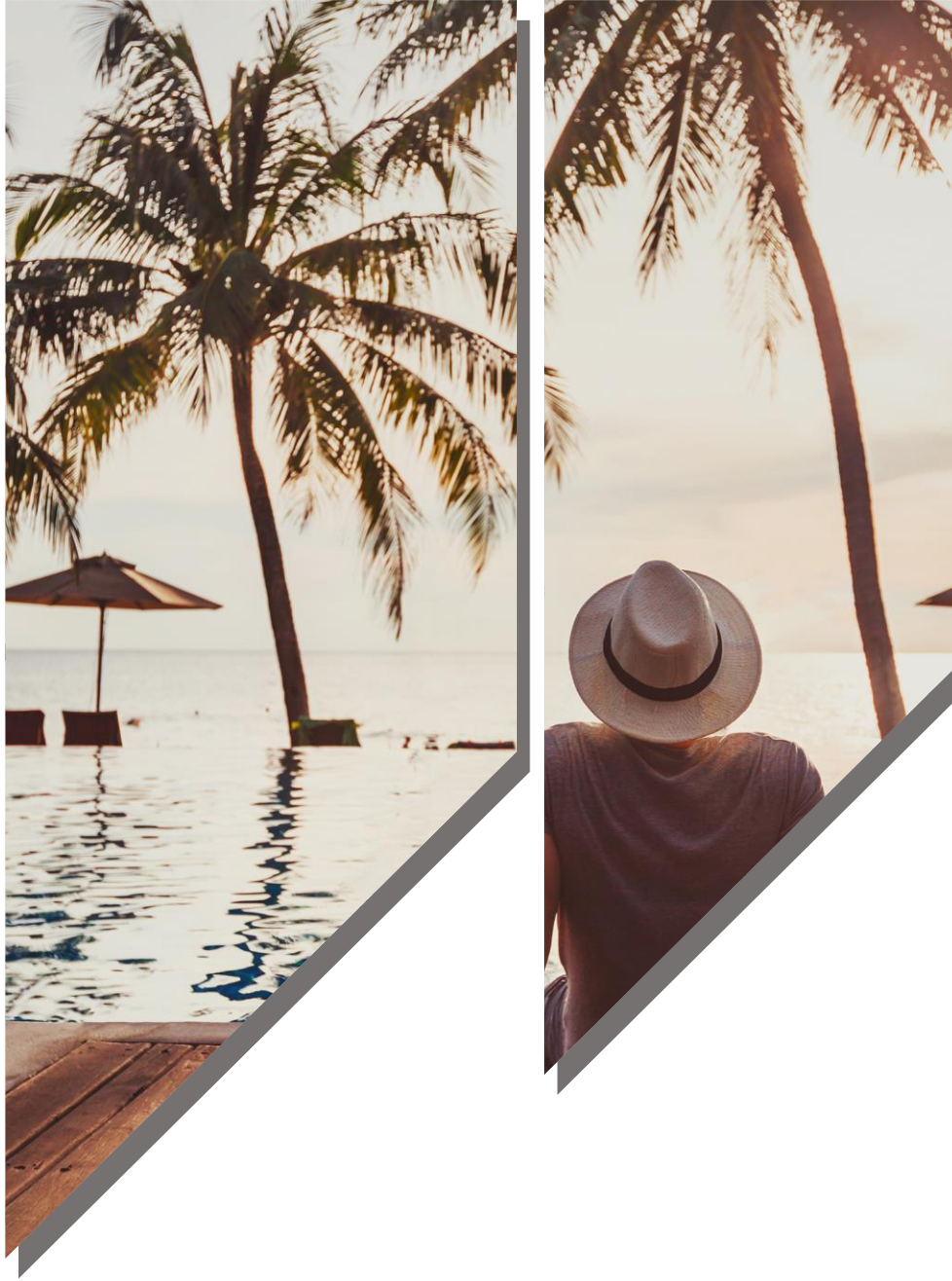
# Quick Poll

**Has your organisation employed an eligible veteran during the 2021/22 tax year?**

# Holiday Carry Over

**Working Time (Coronavirus) (Amendment) Regulations 2020**

- Carry over up to 4 weeks statutory leave
- Must be where unable to take due to pandemic
- Can be taken in next two leave years



# Gender Pay Gap Reporting

## Enforcement Action Delayed

| | Original Deadline | New Deadline |
|---|---|---|
| Public Sector | 31 March 2021 | 5 October 2021 |
| Private Sector | 4 April 2021 | 5 October 2021 |

# Tax Implications – Working from Home

**2021/22**

- Tax relief where working from home for 1 day due to pandemic

**22/23 onwards**

- Section 316 employer paid
- Section 336 £6 relief wholly, exclusively and necessarily incurred

**Office Equipment**

- Transfer of ownership
  - Benefit in Kind
- Reimbursement of expenses
  - Tax Free

**Cycle to Work**

- Easement for arrangement on or before 20th December 2020
- Will not have to meet qualifying journeys condition (50%) until after 5 April 2022
- Arrangement made after 20th December 2020 unchanged

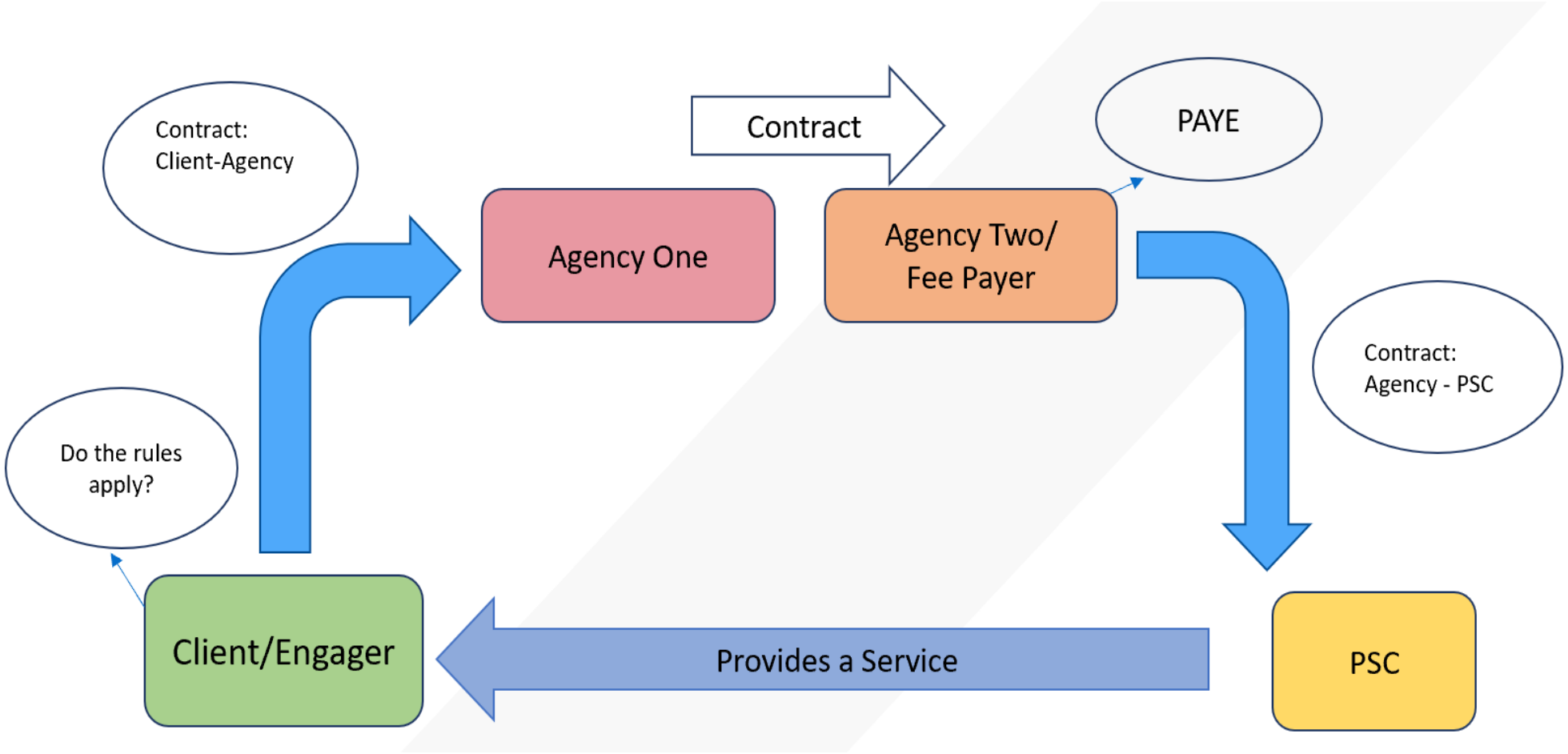
# Off Payroll Working Rules

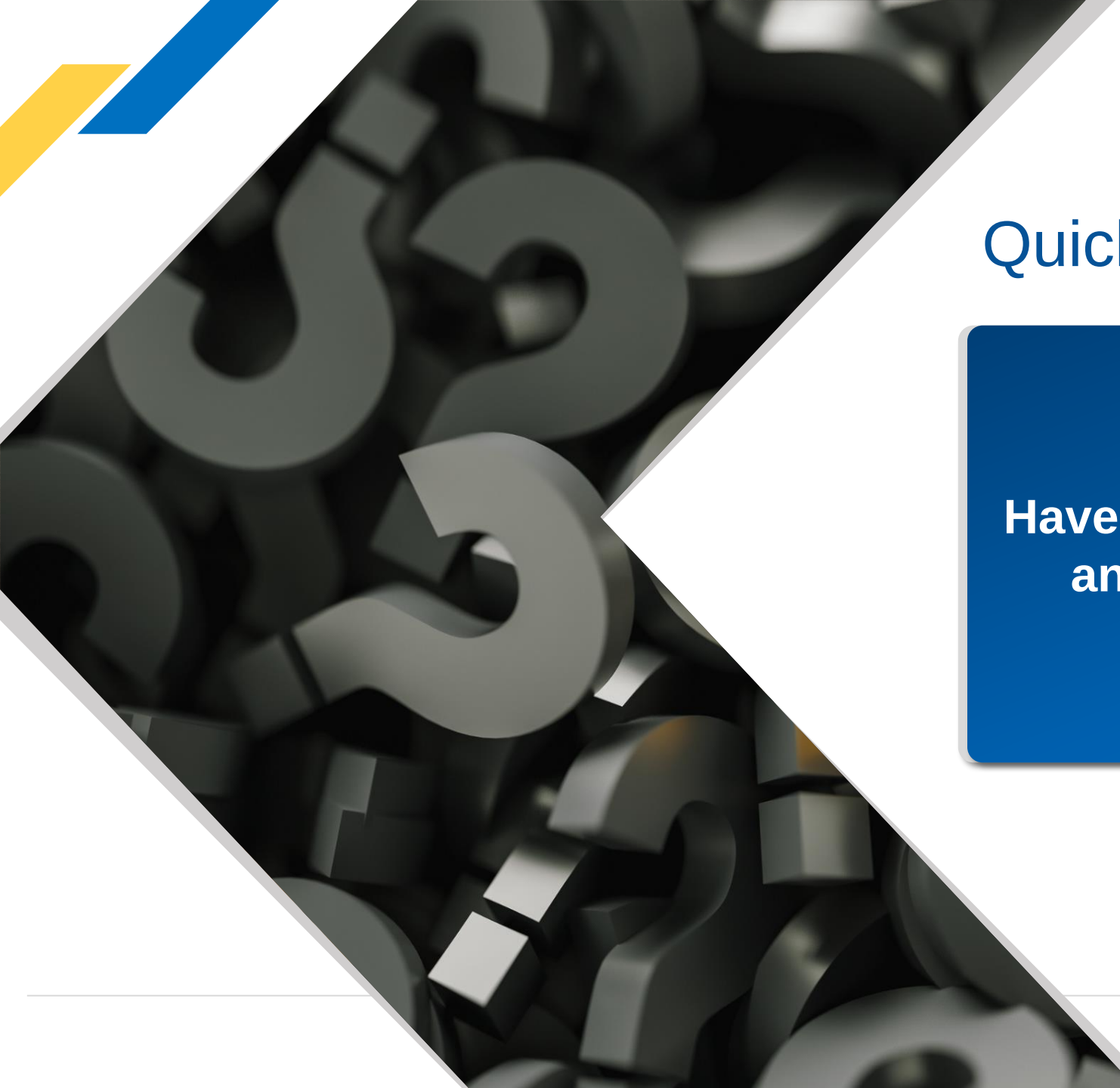
The rules, which come into effect from April 2021, require hiring organisations and end clients to decide whether off-payroll working should apply to anyone engaged via a PSC

If they decide the engagement within off-payroll working, PAYE tax and National Insurance will have to be deducted by the fee payer on ‘deemed’ employment income from payments made to the contractor.

The responsibility for deducting these sums will fall to the fee payer, which may be the client or could be an agency within the supply chain.

# Off Payroll Working Rules

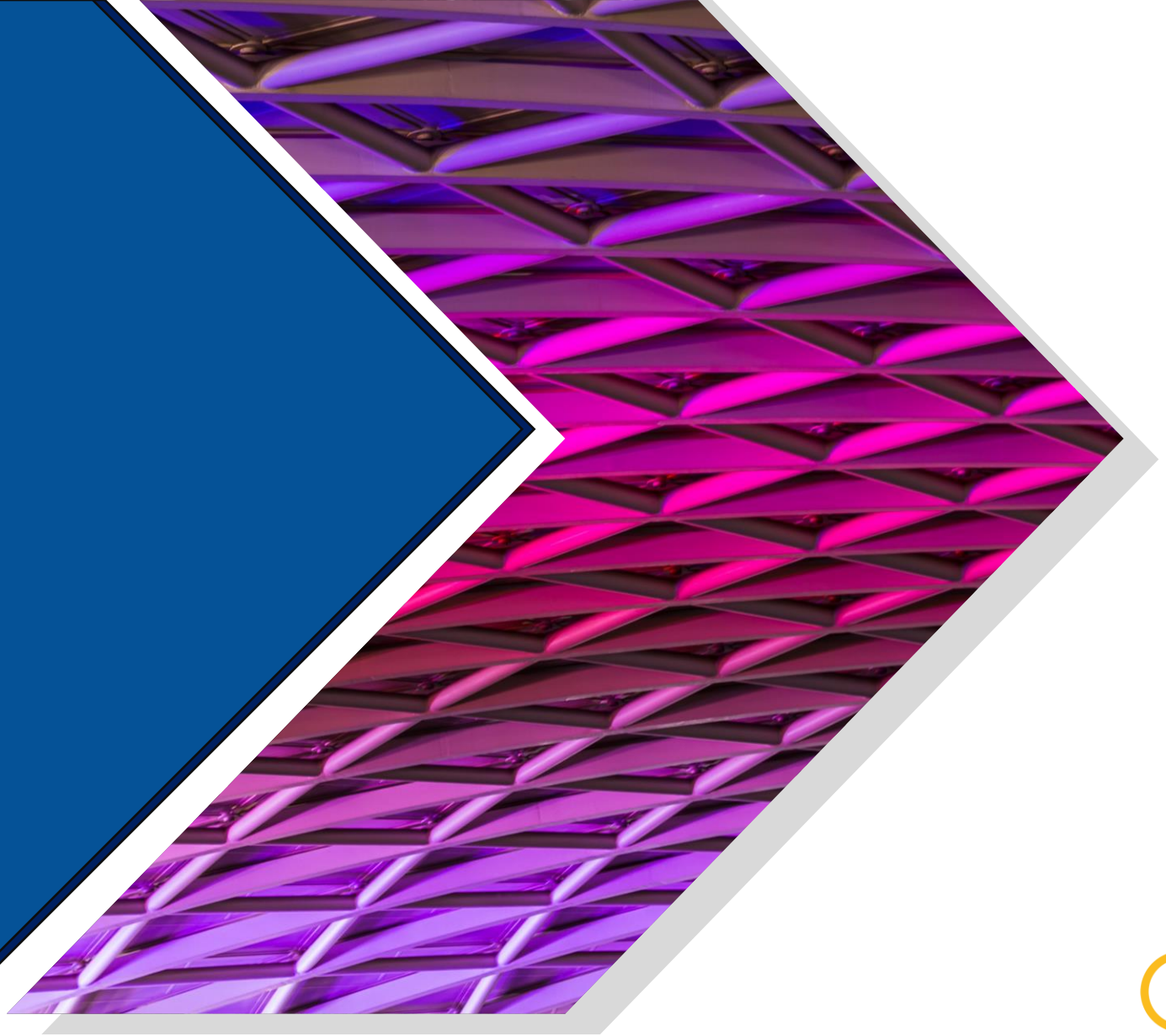




# Quick Poll

**Have the off-payroll working rules had an impact on your payroll team?**

# The next UK Budget



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# Discussion Point

**What would you like to/expect to see in the next budget?**

# Budget Timetable

**Reports suggest there could be a delay in budget timetable until 2022**

Rishi Sunak is considering pushing the budget into next year so the Treasury can weigh up the economic impact of ending the furlough scheme and the third wave of the pandemic over the coming months.

The Guardian

UK Chancellor **Rishi Sunak is considering delaying the Autumn 2021 budget** to next year to allow him to assess further the economic impact of the UK government's business support schemes.

Halo Financial

**Tony Wickenden: Don't expect an Autumn Budget again this year**

Money Marketing

# What will change in 2022?

**National Minimum Wage**

- Low Pay Commission Consultation
- Affordability of NLW Increase to £9.42 (+/-7p) in 2022
- Response due end October 2021
- Government target:

**2024**
**NLW 21 Years +**
**2/3rd Median Earnings**
**£10.33**

**Freeport National Insurance Relief**

- 11 Freeports across the UK
- Freeport Upper Secondary Threshold (FUST)
- Threshold will be £25,000 and will attract 0% employers NIC (cat F – standard)

# What won’t change in 2022?

**Statutory Sick Pay**

- Gov response to ‘health is everyone’s business’ confirms

*“now is not the right time to introduce changes to the sick pay systems”*

**Frozen Until 2026**

- Personal allowance will remain at £12,570
- Higher rate threshold will remain at £50,270
- Pensions lifetime allowance will stay at £1,073,100

# What could change?

**Neonatal leave and pay**

- In 2020 government committed to delivering a new statutory entitlement, no confirmed implementation date
- For employees whose babies spend a period of time in neonatal care (under 28 days old)
- Leave entitlement day one employment right
- Up to 12 weeks paid leave (subject to continuous service).
- Provided in addition to existing parental leave

**Carers Leave**

- Consultation closed August 2020
- Awaiting government next steps
- One weeks carers leave unpaid

**Right to time off for miscarriage or pregnancy loss?**

- Growing number of employers offer paid leave
- New Zealand introduced 3 days paid leave
- Currently no consultations in the UK

# What could change?

**Tax Day 2021**

- 2021 first UK Tax Day
- Calls for evidence and consultation documents published on one day
- Raising Standards in the Tax Advice Market
- Tax Administration Framework: 21st Century Tax System
- Timely Payments
- Awaiting responses to the above

**Tax Day 2022?**

- Will the government take tax day forward?

**Office Tax Simplification Review**

- Tax year end date consultation?

# What could change?

**A Social Care Levy?**

- Speculation continues that government are looking to introduce a social care levy
- This would likely be in the form of an increase to either tax or national insurance
- Conservative manifesto promised no increases to tax or national insurance.

**Flexible Working**

- Pandemic impact on hybrid/remote working
- How will the law change to adapt to the increase in working from home?

# Pensions Changes…

**Pensions dashboard**

- 7 volunteers for alpha test phase (covering 30 million pensions)
- Compulsory onboarding likely from 2023

**Pensions Triple Lock**

- Increased by higher of CPI, average earnings or 2.5%
- Moving from furlough to full pay is recorded as a large rise in average earnings
- Bank of England predicts increase of 8%
- Will the government step away from this calculation?

**Pension tax relief reforms**

- Pension and Lifetime Savings Association reviewed the impact of a flat rate tax relief on pensions
- Modelled a flat rate of 20% or 25% would benefit only a small number of savers

**National Minimum Pension Age**

- Draft legislation to move to 57 in 2028

# Discussion Point

**What would you like to/expect to see in the next budget?**

# The Single Enforcement Body

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# The single enforcement body

- “The Good Work Plan: establishing a new single enforcement body for employment rights” consultation period closed in October 2019
- June 2021 the government confirmed they would be moving forward with a single enforcement body
- The body will have powers to enforce:
  - Statutory sick pay
  - Holiday Pay
  - National Minimum Wage
  - Modern Slavery rules

# Statutory Sick Pay

**What should employers be doing?**

- SSP – day one employment right
- Eligibility is subject to average earnings being above the **LEL**
- Only payable on **qualifying days** (days and employee normally works)
- **Waiting days** – 3 waiting days, must be on qualifying days, before SSP can be paid
- Employee must form a **period of incapacity to work** (PIW) – 4 consecutive days, even if they're not qualifying days
- No waiting days if employee has been in receipt of SSP in the previous 8 weeks
- Payable for a maximum of **28 weeks**
- Ineligible employees must be sent an **SSP1 form**
- Covid 19 related absence – no waiting days

# Holiday Pay

- Workers and employees are entitled to **5.6 weeks paid holiday** per year
- Important – holiday is accrued while the employment contract is still active
- Holiday should reflect **normal remuneration** and should be paid when the annual leave is taken
- Shift workers and those with no fixed should have their holiday paid based on **average pay from the previous 52 weeks**
- If the individual had no pay in any week, you must count back another week up to a maximum of 104
- **Overtime** worked should be included in the calculation and paid for a minimum of the first **4 weeks** (EU entitlement) of the holiday entitlement.

# National Minimum Wage

- **Name and Shame Regime** – Many employers have failed to meet their requirements
- **Apprentice pay after 1st year**
- **What is working time?**
  - travelling on business
  - training
  - pre-work briefings
  - security checks
- **Deductions from pay**
  - court admin fee
  - savings schemes (Iceland)
  - uniform
  - accommodation
- **Types of work**
  - salaried
  - timed
  - output
  - unmeasured

# Modern Slavery Act

- Introduced in the UK in 2015
- Impacts large business (annual turnover above £36 million)
- Requirement to publish an annual statement setting out steps the business takes to prevent modern slavery.
- Transparency in supply chains consultation, government is looking to strengthen measures in the Modern Slavery Act.

# Case Law

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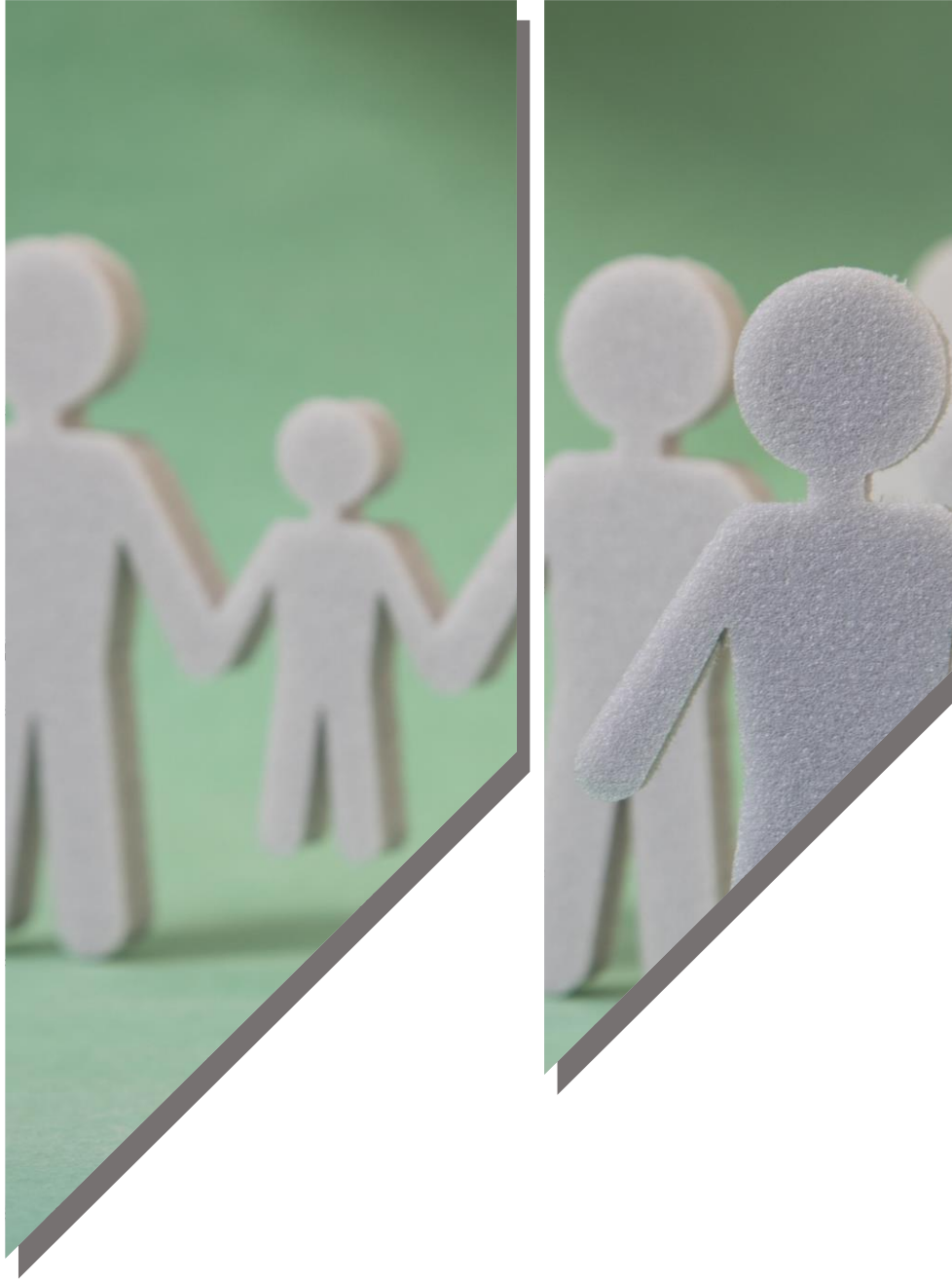
# Bayliff v Fileturn Ltd

- 30th July 2020 gov announced calculations on statutory notice pay should be based on pre-furlough pay (not 80%)
- Employee was serving notice, paid 80% up to 30th July and 100% from 31st July to leave date
- Employee claimed unlawful deduction from wages
- ET dismissed the claim, new law came into force from 31st July so the change only applied after this date.

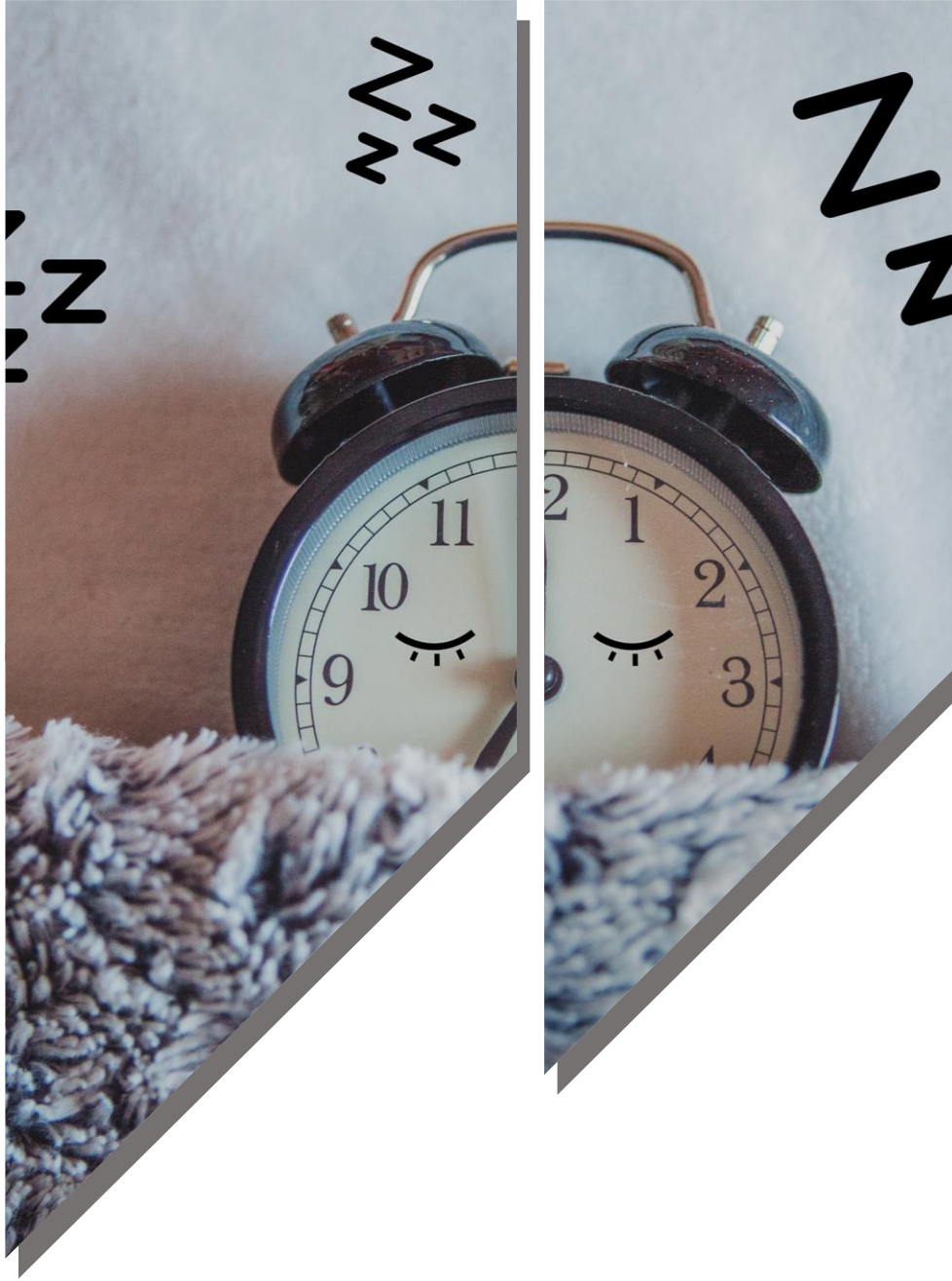


# Price v Powys County Council

- Male employee chose not to take Shared parental leave as the employer only paid statutory rates
- Under company policy, maternity and adoption pay was enhanced
- Employee brought a claim of direct sex discrimination
- Claim was dismissed:
  - maternity comparator: parental leave was materially different to a woman on maternity leave
  - adoption comparator: positions were not materially the same, purpose of adoption leave went beyond childcare

# Royal Mencap Society v Tomlinson-Blake

- Employee paid a flat rate for a “sleep in shift” from 10pm to 7am whilst at her work premises.
- Employee was available if urgent assistance was required, but other than this had no further duties during these times.
- Employee argued that she was not paid national minimum wage, ET and EAT agreed.
- Supreme court made a distinction between ‘available to work’ and ‘working’.
- Employee was not entitled to minimum wage whilst ‘available to work’.
- Employee only entitled to minimum wage if awake for the purposes of working.



# Uber v Aslam

- Uber drivers argued they should be workers not self employed
- Uber argued they were an merely intermediary between drivers and passengers
- ET, EAT and COA decided they were workers, and the Supreme court agreed because:

  - Uber sets the fare, and rides booked via the app
  - Terms are imposed on drivers, no discretion
  - The drivers choice to accept rides is constrained as Uber impose penalties for declined or cancelled trips.
  - Uber exercise control over drivers via ratings system, and expectation to maintain average ratings
  - Communications between driver and passenger are restricted

# Q&A Session

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